

REMARKS

Claims 1 to 10 were pending in the application at the time of the advisory action. Claims 1 to 10 stand rejected as anticipated.

Claims 1 to 10 remain rejected as being anticipated by U.S. Patent No. 5,287,463, hereinafter Frame.

Applicant respectfully traverses the anticipation rejection of Claim 1 in view of Frame. Despite the response to the final office action explicitly pointing out errors in the interpretation of the prior art reference, in the Advisory Action the Examiner stated, "the claims, as fully explained in the Final Rejection, are met by the prior art."

Applicant respectfully notes, as explained previously and described more completely below, the Final Rejection mischaracterizes the prior art reference, the Packetized SCSI Protocol, the general knowledge of those of skill in the art, and explicit claim limitations. A reading within the four corners of Frame leaves no doubt but that the rejection is not well founded.

Nevertheless, the advisory action, as quoted above, continued the assertion that Frame has been properly interpreted. Since Applicant's attorney has pointed out each of these issues, Applicant submits herewith a Rule 132 declaration of Dr. Arlen B. Young, hereinafter referred to as "Young," as additional proof that the anticipation rejection of Claims 1 to 10 in view of Frame is not well founded. This declaration is provided at this time to move the prosecution forward and to negate any claim that the interpretation of Frame and the level of skill in the art is based solely on repetitive attorney argument.

While Dr. Young is the inventor in the above named application (Young at ¶1), he has at least 35 years of experience, as an inventor and a technical expert, with the

patent process including preparation and prosecution of patent applications. (Young at ¶2) He also has over thirty issued patents and has experience related to patentability including anticipation and obviousness gained from assisting in the prosecution of his patent applications. (Young at ¶3)

Dr. Young has over twenty years industrial experience with the SCSI protocols and with developing and implementing devices that utilized the various SCSI protocols. (Young at ¶4) His knowledge of the SCSI protocols and use of them is demonstrated by the fact that he has been recognized by the SCSI Trade Association as one of the three most significant SCSI architects during the first twenty years of SCSI. (Young at ¶5)

Thus, Dr. Young is familiar with the history and the utilization of the various SCSI protocols in industry (Young at ¶6), and has worked on the development of products that have utilized the various SCSI protocols. (Young at ¶7) In particular, he is familiar with the phrase "Packetized SCSI Protocol" and how that phrase is interpreted. (Young at ¶8)

Further, Dr. Young is familiar with the Packetized SCSI Protocol itself and has worked on development of products that utilized the Packetized SCSI protocol. (Young at ¶9) In addition, he is knowledgeable with the term "Packetized SCSI Protocol" as (i) that phrase relates to the definitions and terms used in the above patent application and (ii) that phrase is used in the claims of the above patent application. (Young at ¶10)

Dr. Young has reviewed the specification and pending claims in the above application, (Young at ¶11); has reviewed U.S. Patent No. 5,287,463 to Frame, (Young at ¶12); and has reviewed the final office action, dated November 24, 2004, in the above application. (Young at ¶13)

In the final rejection, it was stated, "it is first noted that Frame et al. employs packetized SCSI and therefore, the

system of Frame et al. must be fully in compliance with packetized SCSI protocol."

The Examiner also stated in part:

Contrary to Applicants' argument, it is clear that Frame et al. employs packetized SCSI, which involves only 2 phases. The Data In phase transfers a packet comprising a command (header) and data (payload) from the target to the initiator; and Data Out phase transfers command and data from the initiator to the target . . .

As previously noted, Frame has a filing date of May 11, 1988. The rejection asserts that Frame teaches a protocol that was not in use at the time of filing of Frame. (Young at ¶14.) Further, the Packetized SCSI Protocol does not include the Command Out phase and the Status in phase. (Young at ¶15.)

In contrast, Frame at Col. 4, lines 28 describes that a Command Out phase is used and at Col. 4, lines 40 to 42 describes that a Status In phase is used. (Young at ¶16) Thus, contrary to the assertion in the Final Rejection that Frame teaches use of only Data phases, Frame described a protocol that includes more than data phases. (Young at ¶16)

There was no citation in the Final Rejection to any teaching in Frame either that the Command Out and Status In phases are not needed, or that Frame would work without these phases. In fact, such an interpretation would be error. (Young at ¶17) The statement that Frame teaches only using data phases in the transfer of data mischaracterizes the teaching of the reference. (Young at ¶18) There has been no citation to "Packetized SCSI Protocol" in Frame and the entire rejection is based upon conclusory statements that are not supported by Frame.

The final rejection goes on to mischaracterize both the Packetized SCSI protocol, and "data packet information unit in the Packetized SCSI protocol." (Claim 1, and Young at ¶19) In particular, the rejected stated:

. . . Data Out phase transfers command and data from the initiator to the target in the form of a packet containing a header and a payload. In Frame et al., a header contains 7 bytes of information. Included in the header are REQ/ACK offset byte, source and destination ID verify bytes, frame length bytes and checksum byte.

First, as previously pointed out and quoted in the response to the final office action, Frame taught at Col. 4, lines 24 to 32 that the header cited in this part of the rejection was delivered in the Command Out phase (Young at ¶22) and specifically stated:

In the Command Out phase, the initiator delivers control information to the target in preparation for the Data Out phase.

This unambiguous statement directly contradicts the interpretation of Frame that the header was transmitted in the Data Out phase as presented in the final rejection.

Further, this erroneous interpretation cannot be based upon a broad interpretation of the claim language, the MPEP directs:

The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach.

MPEP § 2111, 8th Ed., Rev. 2, p. 2100-47 (May 2004).

Therefore, the broadest reasonable interpretation of "a data information unit in the Packetized SCSI protocol" must be consistent "with the interpretation that those skilled in the art would reach."

The above interpretation of a header containing the seven bytes of information fails to comply with this requirement of the MPEP. In particular, "a header delivering seven bytes of

information. Included in the header are a REQ/ACK offset byte, source and destination ID verify bytes, frame length bytes and checksum byte," demonstrates that Frame does not teach a Packetized SCSI Protocol data packet information unit at least because a REQ/ACK offset byte is not included in the data packet information unit of the Packetized SCSI Protocol. (Young at ¶20)

Any interpretation used by one of skill in the art of "data packet information unit in a Packetized SCSI Protocol Data Out phase" is consistent with the Packetized SCSI protocol. If a different interpretation were used, such as that just cited from the final rejection, the data packet information unit would not work because it would not be consistent with the Packetized SCSI protocol. (Young at ¶21)

The reason for a specified protocol is that both the sender and receiver know what to expect based upon the specified protocol. (Young at ¶21) Thus, the interpretation used in the final rejection of "data packet information unit in a Packetized SCSI Protocol Data Out phase" is inconsistent with an interpretation that would be used by those of skill in the art and according to the MPEP is therefore inappropriate.

The final rejection goes onto discuss the REQ/ACK signals and stated in part with respect to the REQ signal "this signal indicates a target's desire . . . for another data packet information unit." This statement demonstrates that an explicit claim limitation was not considered. Claim 1 recites

receiving a signal by said SCSI initiator, in said Packetized SCSI Protocol Data Out phase during transfer of said data packet information unit, to indicate whether another data packet information unit is to be transmitted in said Packetized SCSI Protocol Data Out phase. (Emphasis added.)

The recited signal is received "during transfer of said data packet information unit." The initiator does not receive

the REQ signal cited by the Examiner "during transfer of said data packet information unit." The REQ signal can only occur after transfer of a data packet information unit has completed.

(Young at ¶23) Thus, the characterization of Frame in the final office action is incorrect. Moreover, the interpretation is not based upon Frame because Frame does not include a timing diagram.

The final rejection goes on to describe the parity line in Frame as being used in flow control. The characterization of the parity line use, in the final rejection of Claim 1, as controlling flow control is incorrect. The final rejection seems not to understand how the parity line is used.

(Young at ¶24)

In the SCSI protocol that uses parity, the generator of the data signals generates the parity signal. During the Data Out phase, the initiator, not the target, generates the parity signal. Therefore during a Data Out phase for a SCSI protocol that uses parity, there is no way the target can signal the initiator via the parity line that an error has been detected and the data transfer should be stopped. (Young at ¶25)

The fact that the rejection relies upon a parity error signal further demonstrates a misunderstanding of the Packetized SCSI Protocol, because in the Packetized SCSI Protocol, the parity lines of the bus are not used to determine data transmission errors. (Young at ¶26) This is but further evidence that the statement that Frame complies with the Packetized SCSI protocol is incorrect.

If the parity line is being used to determine a parity error as stated in the final rejection, the bus protocol is not the Packetized SCSI protocol. The final rejection is logically inconsistent in the assertions that are made concerning the teaching of Frame as to using byte parity as it relates both to the Packetized SCSI protocol and to the SCSI protocol that utilizes parity. (Young at ¶27)

Any one of the above distinctions is sufficient to overcome the anticipation rejection of Claim 1, because Frame fails to teach the identical invention in the same detail as recited in the claim. Repeated unsubstantiated and incorrect statements in the rejections cannot negate the explicit teaching in the reference. All of the operations in Claim 1 are limited to a specific protocol and a specific phase within that protocol. Numerous omissions and changes are required to Frame to even support the incorrect rejections. Such changes are not appropriate for an obviousness rejection, and so cannot possibly form the basis of an anticipation rejection. Applicant requests reconsideration and withdrawal of the anticipation rejection of Claim 1.

The Examiner's rejection of Claims 2 and 3 further demonstrates that Frame fails to teach exactly the invention recited in Claims 2 and 3. The rejection relies upon information that one of skill in the art would interpret as being unrelated to operations within a Packetized SCSI data out phase. Applicant requests reconsideration and withdrawal of the anticipation rejection of each of Claims 2 and 3 in view of Frame.

With respect to the anticipation rejection of Claim 4, Claim 4 contains language similar to that discussed above for Claim 1. Therefore, the above comments concerning the anticipation rejection of Claim 1 are incorporated herein by reference. Applicant requests reconsideration and withdrawal of the anticipation rejection of Claim 4 in view of Frame.

In the anticipation rejection of Claims 5 and 7, the Examiner first stated:

the method comprising: transmitting a data packet information unit or a plurality of data packet information units, one immediately after another, by a SCSI initiator in a Packetized SCSI Protocol Data Out phase (it is first noted that Frame et al. employs packetized SCSI and

therefore, the system of Frame et al. must be fully in compliance with packetized SCSI protocol.

There is no citation in this statement to Frame, and it is factually incorrect at multiple levels as noted above with respect to Claim 1 and incorporated herein by reference. Applicant could again refute the assertions made point by point based upon declaration of Young, but this is repetitious of the above analysis. Applicant requests reconsideration and withdrawal of the anticipation rejection of each of Claims 5 and 7.

Claim 6 depends from Claim 5 and so distinguishes over Frame for at least the same reasons as Claim 5. Applicant respectfully requests reconsideration and withdrawal of the anticipation rejection of Claim 6 in view of Frame.

Claims 8 and 9 depend from Claim 7 and so each distinguishes over Frame for at least the same reasons as Claim 7. Applicant respectfully requests reconsideration and withdrawal of the anticipation rejection of each of Claims 8 and 9 in view of Frame.

With respect to the anticipation rejection of Claim 10, Applicant incorporates herein by reference the above Remarks with respect to Claims 1, 5, and 7 concerning the SCSI protocol taught by Frame. Since Frame fails to teach the Packetized SCSI protocol, Frame fails to teach "The identical invention must be shown in as complete detail as is contained in the ... claim." Thus, Frame, as interpreted by the Examiner, fails to anticipate Claim 10. Applicant respectfully requests reconsideration and withdrawal of the anticipation rejection of Claim 10.

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Appl. No. 09/745,035
Amdt. dated April 6, 2005
Reply to Advisory Action of March 2, 2005

Claims 1 to 10 remain in the application. For the foregoing reasons, Applicant(s) respectfully request allowance of all pending claims. If the Examiner has any questions relating to the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicant(s).

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 6, 2005.



Attorney for Applicant(s)

April 6, 2005
Date of Signature

Respectfully submitted,



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